

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

DOLLY RICHARD

Claimant

VS.

PAYLESS SHOE SOURCE

Respondent

Self-Insured

)
)
)
)
)
)
)

Docket No. 199,394

ORDER

Claimant appeals from a Preliminary Order dated July 24, 1995 by which Administrative Law Judge Floyd V. Palmer denied claimant's request for temporary total disability and medical benefits.

ISSUES

The only issue to be considered is whether claimant's injury arose out of and in the course of her employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds:

- (1) The issue raised by claimant is one subject to review on appeal from a preliminary order. K.S.A. 44-534a.
- (2) Claimant has not proven accidental injury arising out of and in the course of her employment.

Claimant started working for respondent, Payless Shoe Source, on November 19, 1994. In early January 1995 claimant reported that she had been having pain in her hands for approximately two (2) weeks. She agreed that the symptoms began approximately December 21, 1994. The record shows that from November 19, 1994 through December 21, 1994 claimant rarely worked a full day, leaving work early on most occasions. She was off sick for two (2) full days.

The record also establishes that claimant suffers from hyperthyroidism and diabetes. The examining physician indicated that either condition could cause symptoms

of hand pain. He could not determine whether the symptoms were work related. On the basis of the evidence presented, the Administrative Law Judge found claimant had failed to meet her burden of proving accidental injury arising out of and in the course of her employment. The Appeals Board agrees.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Floyd V. Palmer dated July 24, 1995 should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of October, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Henry O. Boaten, Topeka, Kansas
James C. Wright, Topeka, Kansas
Floyd V. Palmer, Administrative Law Judge
Philip S. Harness, Director